THE INTERIM

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LEGISLATIVE AUTOMATED WORKFLOW SYSTEM (LAWS)

Information System is "State of the Art"...A powerful new system for getting timely information about bills and bill drafts is now available for your use. The Montana Legislative Branch has debuted a new system called LAWS (Legislative Automated Workflow System) for the 1999 legislative session. Although the session doesn't begin until Jan. 4, 1999, the LAWS system actually went into operation on October 26, 1998, to allow for tracking of bill drafts and viewing of edited bill draft text.

LAWS is a "state of the art" legislative information system, integrating bill text and bill status information in a seamless fashion for users. The Internet serves as the vehicle that makes the Montana Legislature accessible to the citizens of Montana as well as a worldwide audience.

This public access portion of LAWS consists of an Internet web server that serves information from the legislative session database. The web site also has links to bill text, bill draft text, agendas, journals, legislator information, and other related information.

The database portion of LAWS replaces the mainframe Bill Status System which had been in operation since the 1985 legislative session.

The text processing portion of the system, used by Legislative Services staff to draft and amend bills, is a WordPerfect 8 macro-driven system. It replaces the WordPerfect 5.1 system used previously. A special feature of the text processing system is its capability to update the database portion of the system with information as needed. That is, Internet users will be able to access online bill status information, committee hearing information, agendas, etc., as well as the text of introduced bills, amended bills, enrolled bills, and edited bill drafts. The text of edited bill drafts was not available over the Internet last session.

Advanced search features to help identify bills and bill drafts of interest will also be available for Internet users. For example, users will be able to generate lists of bills and bill drafts that meet specific criteria selected by the user. This criteria can include one or more of the following: requester of a bill draft, primary sponsor of a bill, drafter of a bill, subject assigned to a bill, current status of a bill, and other criteria.

Ability to Track Specific Legislation...Internet users who wish to track specific legislation will be able to sign up for a special service called "preference list". This free service will allow users to create, modify, and save their own bill list files. Once a bill/bill draft list file is created, the user can "click on a button" to generate a report which lists the latest status of each bill/bill draft in the list, along with the bill or bill draft's short title and primary sponsor/requester.

Applicants for this "preference list" service will be required to mail in an application form to the Montana Legislative Services Division. This form itself will be available from the Montana Legislative Branch "LAWS" Internet page. Users of this service will be given a user-id and password by the Montana Legislative Branch in order to maintain their own "preference list" files. Full details for this service will be released in late October and will be made available from the Montana Legislative Branch "LAWS" Internet page.

Text Available in WordPerfect...Bill text will be stored in WordPerfect 5.1 format on the Internet (and also on the State Bulletin Board System). Note that WordPerfect 5.1 format is the same format that was used for bill text during the 1997 session. The latest version of each bill will also be stored in "html" format for online viewing over the Internet, similar to the 1997 session.

Data Still Available on BBS...Users of the State Bulletin Board System (BBS) will be able to access the same data as was available for the 1997 session. This data will include legislative reports (typically updated once a day), as well as the text of introduced bills, amended bills, enrolled bills, and edited bill drafts. The text of edited bill drafts was not available over the BBS last session.

The BBS has toll-free access within the state of Montana. Note that bill status information via the BBS is typically updated once a day while the Internet status information will be online ("up to the minute" information).

Will Need Internet Connection...Use of the public access portion of LAWS requires a computer with an Internet connection, and a world-wide-web browser. Most public libraries have these if you do not. Connect to the system with this URL:

http://laws.leg.state.mt.us/law/plsql/LAW0200W$.Startup (note the dollar sign in the URL - many users mistake it for an "S").

There is a link "1999 Session" to the LAWS system from the Montana Legislative Branch Internet home page:

http://www.state.mt.us/leg/branch/branch.htm.

Note that the LAWS system uses advanced browser features found in newer browsers. It has been tested with Netscape version 3.x and higher, and Internet Explorer versions 4.x and higher. Other browsers, or lower versions of these two browsers, can be used for some functions in LAWS, but advanced functions will not work. The LAWS home page has a link where you can download a newer browser at no cost.

Hardcopy Documents Still Available...Hardcopy documents are still available from the Legislative Services Division as in the past. The mainframe bill status system no longer exists. But, if you want the most up to date information possible, the LAWS system has it. Check the calendar below for the projected key dates related to information availability:

09/25/1998: Cumulative Bill Draft Request Report is available from Room 138, State Capitol.

10/26/1998: Internet access to LAWS is made available to the public.

10/26/1998: Reports (including the Cumulative Bill Draft Request Report) and the text of edited bill drafts are available over the Internet and the State BBS.

10/26/1998: Data Distribution Office is open part time in Capitol (Room 60); this office will be open full time beginning 01/04/1999.

12/15/1998: Daily Introduced Bill Report is available over the Internet and the State BBS, assuming any bills have been preintroduced by this date.

12/15/1998: Text of introduced bills is available over the Internet and the State BBS, and from the Data Distribution Office, assuming any bills have been preintroduced by this date.

01/04/1999: 56th Legislature convenes.

01/04/1999: Legislative Information Office (including Message Service) opens in Capitol (Room 356).

01/04/1999: Additional legislative information reports are available over the Internet and the State BBS. These include the Daily Index of Introduced Bills, the Daily Status Report, and the hearing and agenda calendars.

04/24/1999: 56th Legislature adjourns (this date assumes a full 90-day session using the proposed legislative calendar).

04/28/1999: Legislative Information Office closes.

06/01/1999: Data Distribution Office closes.

LEGISLATIVE AUDIT COMMITTEE

To Meet in November...The Legislative Audit Committee is scheduled to meet November 12 in Room 104 in the Capitol. The following reports are tentatively scheduled to be presented.

PERFORMANCE AUDIT

Department of Corrections: Intensive Supervision Program and Pre-Release Centers Program (98P-05 & 98P-07)

EDP AUDITS

Banner Human Resource System, The University of Montana -- Missoula (98DP-11)

Public Employees' Retirement Division Computer-Based Applications (98DP-10)

FINANCIAL-COMPLIANCE AUDITS

Guaranteed Student Loan Program, Commissioner of Higher Education (98-06)

Office of the Commissioner of Political Practices (98-22)

Board of Housing, Department of Commerce (98-07)

Montana Health Facility Authority, Department of Commerce (98-29)

CONTRACT AUDITS

Analysis and Evaluation of Claims Processing and Payment Procedures, State of Montana and Montana University Systems (98C-07A)

Montana State Lottery, Financial Statements (98C-03)

Montana State Lottery, Report on Montana Cash Drawings (98C-04)

For further information about the meeting, please contact the legislative Audit Division at 444-3122.

INTERIM PROPERTY TAX COMMITTEE

Committee Completes Work...The Interim Property Tax Committee completed its work with actions taken at the September 14 meeting. The members of the Committee recommended for further legislative consideration three major alternatives and three less-substantial options. The three primary alternatives are:

- a change in the approach to valuation of Class 4 property, from "current market value" to "acquisition value";
- a combination of "cut and cap", rate reduction and homestead exemption; and
- comprehensive property tax reform, accompanied by a 4% statewide, general retail sales tax.

Acquisition Valuation Option...At least three members of the Committee favor additional consideration of changing the method of valuing Class 4 property from the current market value approach to an acquisition value approach, a la California or Florida. The acquisition value approach most seriously scrutinized by the Committee has the following components:

(a) the 1993 value established by the Department of Revenue would be the base year value;
(b) the base year value could increase by the lesser of CPI inflation or 1% annually; and
(c) property newly constructed after 1993 or converted from non-Class 4 classification to Class 4 after 1993 would be valued at the "acquisition value" of the property at the time the property changed hands or was reclassified as Class 4.

Combination Option...At least three members of the Committee favor additional consideration of a combination of changes, including changes to mill levies, the statutory tax rate, and the (amount of) market value of owner-occupied homes subject to property taxation. The combination option has the following components:

(a) implementation of 1996 market valuations (as determined by Department of Revenue appraisals) on January 1, 1999;
(b) reducing the number of mills levied statewide for K-12 education from 40 mills downward to 37 mills;
(c) reducing the statutory tax rate applicable to Class 4 property from 3.816% (TY 1998 rate) of market value to 3.25% of market value; and
(d) the partial exemption from property taxation of the market value of an owner-occupied home, specifically 25% of the first $100,000 or less of market value.

To implement this option, the market value of property as determined by the Department of Revenue for tax year 1997 would be fully effective for tax year 1999.

Comprehensive Reform Option...The general proposal favored by at least three Subcommittee members for further legislative consideration has the following components:

(a) the elimination of approximately $400 million in annual property taxes currently collected for and expended on the support of public education. The reductions would be effected in several ways, including the elimination of statewide mill levies for K-12 education and the university system, higher state support of school transportation and school retirement costs, and the partial exemption of the market value of owner-occupied residences;
(b) the total exemption from property taxation of property commonly known as "business equipment", resulting in an additional reduction of ±$100 million annually in property taxes;
(c) further restricting the potential for growth in revenue/expenditures for local governments and K-12 schools;
(d) the enactment of a statewide, general retail sales tax with the following characteristics:
    - a rate of 4%;
    - exempting food, prescription drugs and medical services from the tax; and
    - establishing a broad base of taxable goods and services, including most professional services;
(e) providing sales tax rebates to low-income individuals and families through a refundable income tax credit; and
(f) ensuring virtual "revenue neutrality" in state/local taxation.

Exemption of Business Equipment...An option favored by at least three members of the Committee would provide some level of "exemption" for business equipment. Committee members have started the bidding at a maximum $25,000 exemption per taxpayer. That level of exemption may change through the legislative process.

Local Option Sales Tax...In parallel to the "resort tax" available to certain communities, at least three members of the Committee favor further legislative consideration of allowing any county or incorporated municipality to impose, through a public vote, a local option sales tax on good and services provided mainly or primarily to nonresidents of the community. The local option sales tax would be capped at a maximum of 3% and at least 5% of the sales tax revenue would have to be used to reduce property taxes within the jurisdiction.

Circuit Breaker Expansion...Montana has at least three different methods by which lower-income homeowners and elderly homeowners may reduce their property tax burdens. A direct reduction in property taxes is available for all lower-income homeowners under 15-6-134, MCA. An indirect reduction in property taxes through an income tax credit mechanism is available to lower-income elderly homeowners and renters. And, there is a type of reverse annuity mortgage available for certain

lower-income, elderly homeowners through the Montana Dept. of Commerce. Under the proposed option, the "circuit breakers" would be expanded to provide more benefits to current recipients and to expand the pool of persons who would be eligible for the programs. At least three members of the Committee approve of further legislative consideration of this alternative.

ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in October...The Environmental Quality Council (EQC) met in Helena on October 30. Agenda items included reviewing subcommittee recommendations, reviewing state agency enforcement and compliance information, reviewing 1999 agency legislative proposals, receiving an update on voluntary forestry best management practice, and voting on Subcommittee recommendations. The EQC wrapped up most of its interim study process at this meeting. The EQC subcommittee activities are set out below.

Montana Growth Issues...The EQC Growth Subcommittee has distributed a draft report entitled "Planning for Growth in Montana". The report describes how planning can be used to provide for population growth in Montana and encourages greater reliance on planning rather than subdivision review as a mechanism to address growth. The report describes planning activities in Montana and other states and identifies both successful and unsuccessful approaches to planning. Topics include citizen participation, neighborhood planning, impact fees, the use of geographic information systems in planning and subdivision review, coordination between local governments, encouraging growth in urban areas, preserving "open space", infrastructure planning, and resources available for planning.

Comments on the draft report were due October 23. The Subcommittee met in Helena on October 29 to review comments and to develop findings and recommendations for consideration by the EQC on October 30. Subcommittee members will present their findings and recommendations at two Montana growth conferences to be held in November. The EQC will make a final decision on report recommendations at its next meeting on December 4.

For agendas or further information, contact Mary Vandenbosch by phone at 444-3742 or by e-mail at <mvandenbosch@state.mt.us>.

Water Policy...The EQC Water Policy Subcommittee met September 4 in Helena. The Subcommittee furthered its progress on the EQC's water-related statutory requirements, provided advice to DNRC on its proposed new chapter of the State Water Plan (focussing on ground water), discussed proposed legislation related to the FWP instream flow leasing program, and made decisions regarding water and TMDL policy recommendations to the EQC.

The Subcommittee approved a three-week public comment period on its draft reports and recommendations. (The comment period closed October 8.). The

Subcommittee met again October 29 in Helena to address comments received, resolve outstanding issues, and finalize its water policy, HB 546 oversight, and FWP instream flow recommendations to the Council.

Please contact Kathleen Williams (444-3742) for more information.

For more information on the October 30th EQC meeting, please contact the EQC staff at 444-3742 or via the Internet at <teverts@state.mt.us>.

COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS

Committee Takes Final Action on DC Plan...The Committee on Public Employee Retirement Systems (CPERS) on Wednesday, October 28 took final action on a committee bill to create a new Defined Contribution (DC) retirement plan within the Public Employees' Retirement System (PERS). Under the proposed bill, current and future PERS members would have the option of either staying in the current PERS Defined Benefit plan or transferring to the new DC plan. University system employees would have the option of transferring to the Optional Retirement Program, which is now only available to University System faculty members.

Committee Discusses Legislation...CPERS also met on Thursday, October 29 to discuss and make recommendations on a list of 28 other potential legislative proposals affecting the public employee retirement systems. Topping the list was a proposal from the Teachers' Retirement System (TRS) Board to enact a Guaranteed Annual Benefit Adjustment (GABA). The proposed GABA for TRS members would be a postretirement benefit increase similar to the 1.5% GABA enacted last session for the other defined benefit public employee retirement systems.

Other key proposals included covering non-municipal fire departments under the Firefighters' Unified Retirement System instead of PERS; providing a 28-year retirement rather than a 30-year retirement for PERS members; and, to address legislative branch administrative and budgeting difficulties and Internal Revenue Code compliance issues resulting from optional coverage, requiring that all legislators be covered by PERS.

For more information about CPERS activities contact Sheri Heffelfinger at 444-3064 or by e-mail at <sheffelfinger@state.mt.us>.

GAMBLING STUDY COMMISSION

Commission Presents Study Results...The Gambling Study Commission held its last meeting on September 30. This final conclave was conducted as a briefing to the

Governor and interested legislators on the results of the study that commenced last January. Following an introductory summary by Commission Chair Shannon Taylor and brief comments from Governor Racicot, the team headed by Dr. Paul Polzin from the Bureau of Business and Economic Research at the University of Montana made presentations on their respective areas of responsibility in the study. Audience members were, as always, invited to raise questions about and make comments on both the study's findings and the methods employed to produce them. Draft copies of the final report documenting the purpose, design, methodology, and conclusions drawn from the study effort were made available to everyone in attendance. Both the Commissioners and the study team fielded a variety of comments on various components of the report.

Modifications Made to Report...As a consequence of critical observations made by Senator Lorents Grosfield (co-sponsor of the bill that created the Commission) and Representative David Ewer, as well as by gambling industry advocates, gambling sector workers, and a representative of "Don't Gamble With the Future", a number of minor yet significant modifications were made to the draft report. These changes, along with several technical corrections and format adjustments, are now in the works.

Report Available in November...Legislators and all other interested persons are encouraged to obtain a copy of the final report, which will be available in early November. The report is a compilation of the Commission's perspectives on legislative options, the study team's narrative treatment of their findings, and a set of appendices providing a detailed accounting of the methods used to obtain and evaluate gambling-related data.

Please contact Research Analyst Stephen Maly by phone (444-3064) or e-mail (smaly@state.mt.us) if you would like to be placed on the mailing list to receive the report once it's been printed for distribution.

TRANSITION ADVISORY COMMITTEE

TAC Holds Final Meeting...The Electric Utility Industry Restructuring Transition Advisory Committee (TAC) held its last meeting of the 1997-98 interim in the State Capitol in Helena on Friday, October 23. The TAC members heard very brief reports on the status of the pending sale of Montana Power Company's generation assets and on the situation involving PacifiCorp's pending sale of its distribution properties to Flathead Electric Cooperative. TAC members were informed that a number of weighty decisions that will affect many of the most important aspects of restructuring that the Committee is charged with monitoring are on the near horizon. For example, the identity of the purchaser as well as the purchase price for MPC's hydroelectric and coal-fired facilities should be known before the end of the year, and the resolution of the PacifiCorp lawsuit contesting the Public Service Commission's jurisdiction over the

terms of its sale should be known even sooner.

TAC Makes Recommendations...The TAC's legislative members voted to recommend a composite bill to establish and implement the universal system benefits program and to repeal a provision of SB 390 that might have been challenged in court as an unjustified burden on interstate commerce. A proposal to grant the Public Service Commission the authority to approve or disapprove USBP credits was resisted by a majority of the legislative members (and the TAC's Public Service Commission representative) and did not succeed.

TAC Discusses Final Report...The TAC discussed the shape and content of its mandated final report to the governor and the Legislature. A draft of the report had been submitted to the members by staff prior to the meeting. In addition, an executive summary (see below) was introduced by staff as a means of providing focus on the main accomplishments of the interim.

TAC Final Report: Executive Summary:

- Some parts and phases of the restructuring process proceeded in accordance with the schedule set forth in Senate Bill 390, while others did not. Deadlines for the Public Service Commission's final orders on utility transition plans and the start date of pilot programs were necessarily delayed.

- The Transition Advisory Committee (TAC) was responsive to unanticipated decisions and events, such as the Montana Power Company's announcement of its intention to sell all of its generation assets in the state.

- The TAC met its statutory requirements regarding quarterly meetings and reports, and conducted an additional meeting in conjunction with the Montana Consumer Counsel.

- The TAC established an Education Subcommittee to ensure that other TAC members and interested legislators were informed about basic aspects of restructuring in Montana and elsewhere, and to monitor and evaluate the fairness and effectiveness of customer education messages and materials produced by investor-owned utilities and participating electrical cooperatives.

- The TAC established a Universal System Benefits Program Subcommittee to develop and recommend a practical means of collecting and administering USBP funds as well as determine a method for determining the applicability of credits against universal system benefits charges.

- The TAC considered and heard public comment on a variety of issues arising from restructuring. Some of these issues were of central importance, including customer aggregation and barriers to competition, while others were more peripheral to the scope of SB 390, such as water rights and continued access to recreational property.

- Because important aspects of electrical industry restructuring are to be phased-in over a number of years, relatively few matters could be concluded or resolved during the 1997-98 interim; therefore, the Committee's legislative recommendations are few in number. They include detailed draft legislation to structure the Universal System Benefits program and proposals to repeal the reciprocity provisions of SB 390.

After modifications are made the final report will be printed for distribution to members of the Legislature and other interested persons. To obtain a copy, or to be placed on a mailing list, please contact Legislative Services staff Todd Everts or Stephen Maly at (406) 444-3064.

LEGISLATIVE FINANCE COMMITTEE

Committee to Meet on November 13...The Legislative Finance Committee (LFC) will meet on November 13 in Room 325 of the State Capitol. Tentative agenda items include:

- status of the Mental Health Managed Care contract;
- draft Committee bills on earmarked revenues and statutory appropriations and legislative appropriation issues;
- recommendations to Appropriations leadership on budget global issues;
- status of Budget Development System (MBARS);
- Legislative Fiscal Division (LFD) budget analysis update; and
- budget amendments summary report.

Committee Meets in September...The Legislative Finance Committee (LFC) met in Helena on September 24 and 25 to hear a number of reports and discuss several issues with the primary focus on the 2001 biennium general fund preliminary projections and the major fiscal issues facing the 1999 Legislature.

"Big Picture" Report... LFD staff presented preliminary general fund present law budget projections for the 2001 biennium. The projections are based on present law levels of need, i.e., the amount necessary to continue programs and services at the level of service authorized by the previous Legislature, including caseload and workload increases, as well as school enrollment projections. These are compared

against preliminary revenue estimates to provide a projected fund balance at the end of the biennium. LFD staff projects an ending fund balance before reserves of $106 million. This represents funding available, after funding present law, for new initiatives, tax reform, and a general fund reserve (traditionally about $25 million). This moderately positive outlook occurs even though there is only a moderate growth in ongoing revenues to support ongoing appropriations. The primary reasons contributing to a positive fund balance are a reduction in the growth of expenditures, including significant reductions in the growth of human services costs, education enrollment declines, and unanticipated revenue as a result of federal tax reform.

It must be noted that although there is a projected fund balance of over $100 million before allowing a general fund reserve, increased funding above present law needs would have to be limited to $56 million for anything other than one-time increases, if a fund structural balance is to be maintained. The $56 million represents the amount that present law ongoing revenues exceed anticipated ongoing expenditures. This positive difference is attributable largely to a reduction in the growth of expenditures, as revenues have shown a consistent growth of 2 to 3 percent each biennium.

There are a number of troubling signs that appear to indicate economic slowdown in future bienniums. Agriculture and natural resource prices are severely depressed when compared to previous years. In addition, there are uncertainties about how long the state can expect to experience continued slow rates of growth in human services expenditures and education enrollment declines. The Legislature may want to weigh these factors in establishing state fiscal policy in the 1999 session.

New Proposals...As part of the reports providing the Legislature with a general picture of the anticipated financial outlook for the 1999 legislative session, LFD staff presented a report summarizing new proposals included in the agency budget requests submitted to the Office of Budget and Program Planning. While inclusion in the agency request does not ensure inclusion in the Executive Budget, the agency request does present a picture of those proposals under consideration.

Agencies included $78.7 million of general fund new proposals, including $40.0 million in the Office of Public Instruction for an increase of 4 and 2 percent, respectively, in the elementary and high school BASE aid schedules. The University System includes $9.6 million, but was given approval by the Board of Education to include over $33 million in new proposals for several increases, including economic development and student financial aid. The Department of Corrections includes $7.9 million, primarily for additional probation and parole officers, and staffing for a new 96 bed unit and an expansion at Pine Hills. The Department of Public Health and Human Services requested $8.7 million for a variety of programs, including provider rate increases and additional staff and child care funds.

Highways State Special Revenue Account Cash Flow...LFD staff presented an updated cash flow analysis for the highways state special revenue account. The analysis indicates that the structural imbalance that triggered the HB 610 interim study of the account continues to exist. Account expenditures are projected to

exceed revenues by $18.6 million during the 1999 biennium and by $24.0 million during the 2001 biennium. Without legislative action, the account's working cash will move into a negative position during fiscal 2001. This would put the Montana Department of Transportation (MDT) in a position of needing debt financing to sustain program delivery. It should be pointed out that the analysis assumed full expenditure of appropriations for fiscal 1999. This assumption results in a worst case scenario but one that will allow the Legislature to consider budget issues based on existing authorized expenditure levels. Staff from the MDT stated that fiscal 1999 expenditures will be significantly lower than appropriations, keeping the account from going negative during fiscal 2001.

Transportation Funding Study Committee Recommendations...Following the presentation of the highways state special revenue account cash flow analysis, LFD staff presented the recommendations from the LFC interim committee studying transportation funding. The Committee was commissioned by HB 610 because of concerns of a chronic structural imbalance (annual revenues exceeding expenditures) in the highways state special revenue account. In summary, the Committee recommended to:

- shift funding of Department of Justice activities that are not directly related to enforcement of highway safety from the highways state special revenue account to the general fund or another alternative source of funding ($3,436,470 per year impact);

- allow interest earned on the highways state special revenue account fund balance to be credited to the highways state special revenue account rather than the general fund ($817,500 per year impact);

- reduce the tax collection allowance for fuel distributors to 0.5 percent ($887,274 per year impact);

- exempt MDT from the requirement to use the Department of Administration for disposing of excess property ($61,600 per year impact); and
- attempt to proportionally reduce annual operating budgets by $3.0 million for agencies funded from fuel tax revenues with a reduction in the state funded construction program necessary to maintain an annual cash balance in the highways state special revenue account of at least $15.0 million.

The basis for Committee recommendations was alternatives proposed by the MDT. During the report presentation, MDT staff restated their previous assertion that they could save money disposing of their excess property instead of having the Department of Administration dispose of the property. They stated it would save the MDT money, but would not save any money for the state.

Mental Health Managed Care...The LFC heard an update on the status of the contract with Magellan Corp. for mental health managed care. Although both Magellan and the state had announced in September their intent to withdraw from the contract in six months, the state and the company are negotiating to reach agreement on changes that would salvage the contract. The Department of Public Health and Human Services (PHHS) informed the LFC of the status of the negotiations with the company and PHHS plans if the company does withdraw from the contract. The LFC appointed a subcommittee to closely monitor the status of the negotiations and PHHS management of the managed care plan. Subcommittee members are Senator Swysgood, Senator Franklin, Representative R. Johnson, and Representative Peck.

As of this writing, the state and the company have reached agreement on revisions to the contract, and both have announced plans to rescind their notices of withdrawal from the contract. The LFC subcommittee will meet in late October to review the revised plan and make comments/recommendations. The PHHS will make a report at the LFC meeting on November 13.

Legislation...The LFC heard a report on a policy issue involving interest free loans. Current statute requires that the general fund pay interest on any fund from which it borrows if that fund retains its own interest. However, other funds may borrow from the general fund at no interest. Consequently, agencies could conceivably use the general fund to secure federal funds that might not otherwise be available and could also conceivably force the general fund into a borrowing position in which it would have to pay interest while paying no interest to the general fund. The LFC directed staff to draft a bill addressing this issue for discussion and possible action at the November 13 meeting.

The LFC approved draft legislation eliminating the statutory ambiguity that let funds previously transferred from the second year of the biennium into the first year to be transferred back to the second year without legislative review.

State Fund - Old Fund Liability...Carl Swanson, State Fund President, presented the LFC with a letter from the Fund's independent actuary, regarding elimination of the Old Fund liability tax. President Swanson described the review process used by the independent actuary and State Fund staff in determining if the Old Fund is adequately funded so the tax can be eliminated beginning January 1, 1999. The State Fund Board of Directors voted on September 16 to accept the independent actuary's recommendation. As a result, the Budget Director certified to the state Department of Revenue that the Old Fund is actuarially sound and elimination of the tax can occur at the end of calendar year 1998.

Additionally, the LFC was provided with information regarding factors that could adversely impact the solvency of the Old Fund in the future. Such factors include a decline in the interest rate used to project investment earnings or an increase in medical inflation related to payment of Old Fund liability claim benefits.

SB 378 Recommendations...The LFC heard the recommendations of its subcommittee on Earmarked Revenues and Statutory Appropriations and adopted final

recommendations. Staff was directed to prepare draft legislation to implement the recommendations. The Committee approved the elimination of 11 statutory appropriations with a budgetary change of approximately $17,000, some clean-up changes to 11 other statutory appropriations, and the exemption of 15 statutory appropriations from next biennium's review. The LFC also recommended two other changes, resulting in a decrease to general fund revenue of approximately $137,000.

Concerning dedicated revenue provisions (earmarking), the LFC approved:

- de-earmarking (to the general fund) coal severance tax collections that are currently allocated to the long-range building debt service account;

- a cap on the revenues received by the Department of Justice from fines and forfeitures resulting from violations of controlled substance laws. The LFC bill draft will cap this revenue at $125,000 per year and after the cap is reached, one-half of the excess would go to the general fund and one-half would be deposited to the Justice account;

- de-earmarking (to the general fund) revenues received by DNRC and FWP on fines and forfeitures from violations of state land recreation statutes;

- de-earmarking (to the general fund) revenues received by MDT from fines and forfeitures due to vehicle size and weight violations;

- de-earmarking (to the general fund) revenues received by DOLI from fines and forfeitures due to standard prevailing wage violations; and

- de-earmarking (to the general fund) revenues received by PHHS and DOR from fines and forfeitures associated with the sale of tobacco products to minors.

Budget Amendments...The LFC reviewed a report by staff on approved budget amendments by approving authorities totaling $0.6 million for fiscal 1998 and $14.4 million and 9.5 new FTE for fiscal 1999.

POSTSECONDARY EDUCATION POLICY AND BUDGET COMMITTEE

PEPB Committee Meets...The Postsecondary Education Policy and Budget Committee (PEPB) met on September 21 to discuss its subcommittee's recommendations on the potential merger of the community colleges into the Montana

University System (MUS). The subcommittee had recommended that the community colleges be merged on a voluntary basis, that an additional statewide mill amount be levied to eliminate all local community college levies, and that the 2 mills now levied in counties with colleges of technology be replaced. The PEPB did not vote on the recommendations but voted to direct Senator Waterman and Representatives Holland and Rose to prepare draft legislation for further PEPB discussion. As of this writing, no meeting of the PEPB has been scheduled.

OVERSIGHT COMMITTEE ON STATE MANAGEMENT SYSTEMS

Committee Holds Final Meeting...The Oversight Committee on State Management Systems (SMS) held its last meeting of the 1997-1998 interim on September 1. The agenda included an update on the progress of MT PRRIME, including the budget preparation module (MBARS); a discussion of the MT PRRIME Operations Bureau; and state computer system readiness for the Year 2000. In addition to these updates, two specific legislative initiatives were discussed: electronic transaction legislation to be submitted by the Office of the Secretary of State and SMS's bill draft request to authorize a study next interim of the state's negotiated bidding process.

Electronic Transaction Legislation...Recognizing the emergence of technology that allows a document to be "signed", transmitted entirely electronically, and recognized by the courts as a legal document, the Information Technology Advisory Council (ITAC) established a subcommittee in January to examine what that technology is, how other states are handling electronic commerce, and what the Montana Legislature might do to ensure that it is used properly and with minimum risk. Peter Blouke, Department of Commerce Director, chaired the ITAC subcommittee which received staff support from the Department of Administration's Information Services Division (ISD).

The subcommittee studied the different kinds of technology used to create an original signature on an electronic document, examined legislation from other states and what those states have learned since implementing laws regulating electronic commerce, examined the model Uniform Electronic Transactions Act prepared by the National Conference of Commissioners on Uniform State Laws, discussed the portions of Montana Code that would have to be amended, and eventually brought some draft legislation before ITAC.

Electronic commerce is an extremely complex area and getting one's arms around all of the potential implications of the technology requires serious study of not only the technology, but of the legal ramifications and of archiving techniques. Electronic documents must be able to undergo the same scrutiny and the same preservation as paper documents. Because of the complicated array of issues associated with the legislation, ITAC determined to take no formal action on an electronic commerce bill. Secretary of State Mike Cooney, however, has decided to pursue legislation and will

have a bill prepared for the 1999 Session.

Dan Whyte, Mr. Cooney's legal counsel, presented SMS with an overview of the draft legislation. The legislation, as distributed to the Committee, is called the "Montana Electronic Transactions Act". Some of the material is gleaned from the Uniform Act and some is Montana-specific. The Act's purpose is to:

> "facilitate and promote commerce and governmental transactions by validating and authorizing the use of electronic records and electronic signatures; to eliminate barriers to electronic commerce and governmental transactions resulting from uncertainties relating to writing and signature requirements; and to promote public confidence in the validity, integrity, and reliability of electronic commerce and governmental transactions."

An electronic signature is defined in the Secretary of State's draft legislation as "any definer or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as a manual signature." An electronic signature will be considered valid only if it embodies certain attributes, namely, it must be:

- unique to the person using it;
- capable of verification;
- under the sole control of the person using it; and
- linked to the data in such a manner that if the data changes, the digital signature is invalidated.

The legislation's definition section also includes specific definitions for such concepts as authentication, certificate authority, electronic record, digitally encrypted signature, facsimile signature, record, and security procedure.

The legislation seeks to enable state agencies to accept electronic signatures and to use electronic records and signatures. Agencies are not mandated to embrace the technology, but must follow certain procedures if they decide to conduct business using electronic signatures. The bill also addresses retention of electronic records, rulemaking authority for the Secretary of State, and the legal effect of electronically signed documents.

Interim Contracting Study...Many of the agenda items that SMS examined during the course of the interim involved the state having contracted with the private sector for information technology services. That experience, comments from legislators serving on other interim committees, and the current trend toward privatization of state services led SMS to submit a joint resolution calling for a thorough study of state contracting laws, procedures, oversight, and related issues. SMS made it clear that the study should not be limited to information technology contracts but should include all types of big-money contracts to ensure that the state's interests are protected. Lois Menzies, Director of the Department of Administration, testified that such a study is timely and would be extremely helpful to the Department as it issues an increasing number of Requests for Proposals (RFPs) and negotiates more and more contracts.

The resolution, currently in the bill drafting process and identified as LC 116, will call for a review of lessons learned from recent experience in negotiating and overseeing large-scale contracts involving millions of dollars; a review of the laws and practices that govern the RFP process and the contract awarding process, paying particular attention to provisions used to protect the state's interests; and an examination of the contract review process. The study may also include an analysis of how costs of services performed under contract by a private entity compare to the costs of those same services performed by the state and what some of the hidden costs are in privatization.

Final Report...SMS's final report will consist of a series of fact sheets on topics the Committee addressed from September 1997 to September 1998, including, where possible, financial implications of the information technology projects underway at the state level. The report will not be printed and distributed to legislators; it will be published only on the Internet - a first for Legislative Services Division interim committee final reports. Legislators and the public will be notified of the report's presence on the Web and given the address when the report is completed and approved by the Committee sometime in November.

For more information on the activities of the Committee on State Management Systems, contact Leanne Kurtz, Legislative Services Division, at 444-3064 or by e-mail at <lekurtz@state.mt.us>.

THE BACK PAGE

Before adjourning for its Memorial day recess, the U.S. Congress passed the long-awaited reauthorization of the Intermodal Surface Transportation Equity Act by wide margins both in the House and in the Senate. Called the Transportation Equity Act for the 21st Century, or "TEA-21", the bill guarantees over $200 billion in highway, transit, and safety spending.

What exactly does TEA-21 do for transportation and specifically for transportation in Montana? This month's **THE BACK PAGE** discusses the specifics of TEA-21 and its impact on transportation in Montana.

TEA-21, ANYONE?

by Connie Erickson, Research Analyst
Legislative Services Division

> "Much more so than other bills, this legislation touches all Americans in their daily lives ... This is much more than a highway bill'. It is a multifaceted approach to our increasingly complex and sophisticated national transportation system that stretches from coast to coast, and from our inner cities to rural areas ... This is most certainly one of Congress's greatest achievements this session in terms of transportation safety and innovation, infrastructure, recreational trails, and environmental protection."
>
> Senator John Chafee (R)-Rhode Island

INTRODUCTION

Those exuberant words from Senator John Chafee accompanied the passage of the "Transportation Equity Act for the 21st Century" or, as it has become more affectionately known, TEA-21. TEA-21 is the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA pronounced "ice tea") that provided federal funding to the states for highways, transit systems, and other transportation-related programs from 1992-1997. The largest public works bill in history, TEA-21 benefits highways, transit, technology, environmental programs, and jobs. It provides states with more money, more flexibility, and many incentives to improve transportation safety. The road to TEA-21 was bumpy and full of potholes, and at times it appeared as if the detours would never end. But Congress eventually reached its destination and, for America's transportation systems, it was well worth

the trip. The act runs over 400 pages, so this article will provide a brief summary of the act's major provisions.

FUNDING THE ROAD

TEA-21 authorizes almost $218 billion in spending over the next six years: $175 billion for highways, $41.4 billion for transit, and $2.2 billion for highway safety. In a major change from federal budget rules, TEA-21 guarantees a minimum level of spending for highway and transit programs; the amount guaranteed is $198 billion. This guarantee addresses the concern of many transportation officials that too much of the federal highway trust fund was being used to offset the federal deficit. Under this guarantee, the money cannot be diverted elsewhere during the appropriations process.

TEA-21 also solves the controversy over "donor" states vs. "donee" states. Under the ISTEA funding formula, donor states contributed more to the federal highway trust fund than they got back. Conversely, donee states received far more than they contributed. Florida, a donor state, got back $.77 per dollar contributed, while Montana, a donee state, received almost $2 for every $1 contributed. Under TEA-21, all states are guaranteed a minimum 90.5% return on money deposited in the trust fund. Under this formula, only one state, Massachusetts, will receive fewer dollars than it did under ISTEA.

The massive funding authorization is not without its critics. Because TEA-21 spends $17.7 billion more than allocated to transportation in the 1997 balanced budget agreement, cuts had to be made in other programs: $15.4 billion from health benefits for veterans afflicted with tobacco-related ailments and $2.4 billion from social service block grants for child care and supplemental welfare. These cuts have sparked harsh criticism from human services advocates.

MOVING ON DOWN THE ROAD

TEA-21 is designed to move people. With $216 billion committed to highways and transit, states should be able to construct, maintain, and repair surface transportation systems so that people can get to where they are going quickly and safely.

In addition to the $144 billion authorized for core highway programs, TEA-21 establishes a $700 million discretionary Corridor and Border Infrastructure Program to facilitate the movement of products between the United States, Canada, and Mexico, in accordance with the provisions of the NAFTA and GATT trade agreements. Several highways have been identified as "trade corridors" due to the anticipated heavy flow of commercial traffic. The $700 million fund will be used to plan, design, and construct routes in states that meet the corridor criteria. The program also

includes up to $10 million for the construction of the transportation infrastructure necessary for law enforcement in border states. Federal guidelines for the awarding of grants for this program are still being drafted.

Transit programs also benefit from TEA-21, to the tune of about $41 billion. While cities and urban areas will benefit from the increased spending for mass transit systems, rural area will also gain through the $24 million authorized for over-the-road bus service and the $456 million for programs meeting the special needs of the elderly and the disabled.

A key provision of ISTEA that has been retained in TEA-21 is an emphasis on metropolitan and statewide transportation planning with increased public participation in the decision-making process. However, TEA-21 institutes a number of reforms to the planning process in order to get projects moving faster. These reforms include streamlining the environmental review process, eliminating the programmatic responsibilities of the federal regional offices, and giving states more responsibility for projects that don't involve interstate highways. While many transportation planners welcome the new reforms, others fear that streamlining could weaken environmental review and reduce opportunities for public input. "It's always been difficult for the public to find a way to enter the process," according to Rob Kennedy, coordinator for a Wisconsin coalition of groups concerned with the environment, historic preservation, senior and disability issues, and community development. Kennedy fears that groups such as those he represents lack the resources to actively participate in a streamlined review process. Still, Kennedy and others support TEA-21 because of its planning provisions but intend to monitor the legislation closely to ensure that it works for communities.

One of the criticisms of ISTEA was the inclusion of demonstration projects that were special transportation projects in individual representatives' or senators' districts. Labeled "pork barrel" spending by critics, these demonstration projects were often criticized as a waste of taxpayer money and an expensive means of securing votes. Nevertheless, TEA-21 includes $9 billion for 1,850 demonstration projects. Some of these demonstration projects include a bridge in a small Alaska town, an historic train depot in California, a business park in Pennsylvania, and a county road in New York.

SAFETY ON THE ROAD

One of the key elements in the new federal transportation law is its focus on safety. The World Health Organization forecasts that highway deaths will be the third leading cause of premature death and disability worldwide by the year 2020. To address this growing concern over highway safety, TEA-21 includes funding for construction projects that will reduce highway hazards and improve safety at railroad and highway grade crossings and funding for incentive grants aimed at seat belt use and drunk drivers.

When the reauthorization of ISTEA was being debated in Congress, some of the proposals included safety mandates coupled with monetary sanctions for states that would fail to comply. States balked at these mandates, arguing that states know best how to address their individual safety issues. Congress relented and in the place of mandates substituted incentive grants. Incentive grants are available to states that have enacted laws reducing to .08 the blood alcohol limit for legal driving and to states that adopt primary safety belt laws, which allow a law enforcement officer to stop a driver solely for not wearing a seat belt. These incentive grants can be used for any project eligible for assistance under Title 23 (Highways) of the U.S. Code. Other incentive grants will encourage other regulatory strategies such as graduated licensing for teenage drives, prompt driver's license suspension for a alcohol-impaired driver, or programs that demonstrate a reduction in alcohol-related fatalities.

There is one federally imposed penalty in TEA-21. States that fail to enact laws prohibiting open alcoholic beverage containers in the passenger area of a motor vehicle and establishing minimum penalties for repeat drunk-driving offenders will see a transfer of a portion of the state's federal highway construction funds to the state's highway safety program.

Motor carrier safety programs have been carried over from ISTEA with added funding to enforce commercial vehicle safety and hazardous materials transportation.

THE ROAD TO WORK

Transportation is particularly important for programs that serve welfare recipients who often do not have reliable transportation. Unfortunately, lack of public transportation in both rural and urban areas is a major impediment to welfare recipients seeking and holding jobs. Forty-one percent of Americans who live in rural counties have no access to public transportation. Welfare recipients in urban areas either face long commutes between home and work or find suburban jobs that are not easily accessible by public transportation. TEA-21 authorizes $150 million a year for six years for grants to develop new approaches to getting people to work. Called "Access to Jobs", this $150 million is intended to help welfare recipients and other low-income individuals travel to and from work and to carry residents of cities or rural areas to suburban jobs. These transportation projects require a 50% state and local match, but federal funds from a variety of sources, including federal welfare funds, can be used for the match. While state welfare officials welcome the additional help, there is concern that even though the program is authorized at $150 million, only $50 million is guaranteed. Funds will have to be distributed on a competitive basis and the competition will be tough.

Also included in TEA-21 is a newly-expanded welfare-to-work program called "On-the-Job Training/Supportive Services" that allows states to reserve slots for welfare recipients in job training programs that lead to skilled highway construction

trades. These are jobs that pay well and offer good benefit packages.

TEA-21 continues the Disadvantaged Business Enterprises Program to ensure that women- and minority-owned businesses have equal opportunities in transportation contracting. The program does not permit quotas, but the goal is for 10% of contracts nationally to go to these companies.

NOT JUST ROADS!

One of the unique features of ISTEA was the set aside programs for transportation enhancements, such as bicycle and pedestrian trails and scenic highways. Additional funding for these enhancements is available in TEA-21. Mass transportation centers can receive funding for landscaping and scenic beautification, bicycle access, transit connections to parks, rehabilitation of stations, easier access for people with disabilities, and historic preservation. Enhancement money is also available for transportation museums and pedestrian and bicycle safety activities as well as projects to reduce vehicle-caused wildlife mortality. Funding is also available for states to provide and maintain recreational trails for both motorized and nonmotorized trail users. While some state officials question the inclusion of funding for what they see as local activities, others welcome the opportunity to improve the cultural, aesthetic, environmental, and recreational qualities of their communities.

TEA-21 also continues the Congestion Mitigation and Air Quality Improvement Program (CMAQ) with approximately $1.2 billion in 1998 increasing to $1.4 billion by 2003. The program provides a flexible funding source to state and local governments for transportation projects and programs to help meet the requirements of the federal Clean Air Act. Eligible activities include transit improvements, travel demand management strategies, traffic flow improvements, and public fleet conversions to cleaner fuels. The funds will be distributed to the states based on a formula that considers an area's population by county and the severity of its air quality problems. Under ISTEA, funding went to areas that failed to meet federal air quality standards for carbon dioxide and ozone. Under TEA-21, areas that do not meet standards for fine particulate matter are also eligible for funding.

THE ROAD TO MONTANA

What does TEA-21 do for Montana? Actually, TEA-21 is great for Montana. On average, the apportioned amounts for Montana will increase nearly $100 million annually from $161 million under ISTEA to $260 million under TEA-21. This is an average increase of 61%; only five states will see a higher overall percentage growth. In addition, the demonstration projects include $20 million for the Beartooth Highway in south central Montana.

Under ISTEA, virtually all of the CMAQ funding went to projects in the Missoula carbon monoxide nonattainment area despite significant needs in other areas. Under TEA-21, Montana has greater flexibility in expending those funds to more broadly address air quality and congestion needs across the state while still maintaining the funding for Missoula.

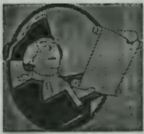
Another area in which Montana will benefit is in pavement preservation. Traditionally funded with state construction and maintenance funds, Montana will now be able to use TEA-21 funds to increase preservation activities.

By working with the transportation departments in North Dakota, South Dakota, Wyoming, and Idaho, Montana was also successful in ensuring that the needs and issues of rural America were adequately addressed in TEA-21. Of all of the ISTEA reauthorization bills considered by Congress over the last year, STARS 2000 ("Surface Transportation Authorization and Regulatory Streamlining Act") best reflected this rural perspective. Luckily, much of STARS 2000 survives in TEA-21, including funding distributions that reflect the national interest in rural inter-regional as well as urban transportation, and making the National Highway System and the Interstate System the foundation of the nation's transportation system.

However, it remains to be seen if the Montana Department of Transportation or other interested parties will introduce legislation relating to seat belt use, DUI repeat offenders, open containers of alcohol within vehicles, and reduction of the blood alcohol limit.

EASE ON DOWN THE ROAD!

TEA-21 is now on the road to implementation. Over the next six years, roads will be built, transit systems will be improved, jobs will be created, trails will be developed, historic buildings will be preserved, safety programs will be enacted, and transportation will be provided to those who need it. At least that is the hope as the states ease on down the road into the 21st century.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

NOVEMBER

November 3, Election Day, legal holiday

November 11, Veterans' Day, legal holiday

November 12, Legislative Audit Committee, Room 104

November 12, Statutory Committee to Nominate Candidates for Commissioner of Political Practices, Room 108, 3 p.m.

November 13, Legislative Council, Room 104

November 13, Legislative Finance Committee, Room 325, 8 a.m.

November 13, Revenue Oversight Committee, Room 437, 1:30 p.m.

November 14, Presession Caucus

November 26, Thanksgiving, legal holiday

DECEMBER

December 4, Environmental Quality Council, Room 104

December 5, Deadline for bill draft requests not counting toward limit, 5 p.m.

December 25, Christmas, legal holiday

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